

SERVICE DATE – SEPTEMBER 19, 2017

SURFACE TRANSPORTATION BOARD

DECISION

Docket No. AB 290 (Sub-No. 392X)

NORFOLK SOUTHERN RAILWAY COMPANY—ABANDONMENT EXEMPTION—  
IN HARTFORD CITY, IND.

Decided: September 19, 2017

Norfolk Southern Railway Company (NSR) filed a verified notice of exemption under 49 C.F.R. pt. 1152 subpart F—Exempt Abandonments to abandon an approximately 0.2-mile rail line between milepost RK 138.6 and milepost 138.8 in Hartford City, Ind. (the Line).<sup>1</sup> Notice of the exemption was served and published in the Federal Register on August 21, 2017 (82 Fed. Reg. 39,644). The exemption is scheduled to become effective on September 20, 2017.

The Board's Office of Environmental Analysis (OEA) served an environmental assessment (EA) on August 25, 2017, solicited comments, and recommended that no environmental conditions be imposed on any decision granting abandonment authority.

OEA received one comment in response to the EA by the September 11, 2017 due date. OEA issued a final EA on September 13, 2017.

In the final EA, OEA states that the Miami Tribe of Oklahoma (the Miami Tribe) offered no objection to the proposed abandonment and is unaware of any existing documentation directly linking a specific Miami Tribe cultural or historic site to the proposed abandonment area. OEA notes that the abandonment area is within the aboriginal homelands of the Miami Tribe and states that the Tribe requests immediate consultation if any human remains or Native American cultural items falling under the Native American Graves Protection and Repatriation Act or archaeological evidence is discovered during salvage activities. Therefore, OEA recommends that the following new condition be imposed upon any decision granting abandonment authority: in the event that any unanticipated archaeological sites, human remains, funerary items or associated artifacts are discovered during the salvage activities, NSR shall immediately cease all work and notify OEA, the Miami Tribe, and the State Historic Preservation Office (SHPO) pursuant to 36 C.F.R. § 800.13(b). OEA shall then consult with the Miami Tribe, the SHPO,

---

<sup>1</sup> In the same jointly filed verified notice, Central Railroad Company of Indianapolis (CERA) seeks Board authorization to discontinue service over the Line. Cent. R.R. Co. of Ind.—Discontinuance of Lease & Operation Auth.—in Hartford City, Ind., AB 511 (Sub-No. 7X). The Line is a portion of a 15.9-mile line that CERA was authorized to lease and operate pursuant to an agreement with NSR. See Cent. R.R. Co. of Ind.—Lease & Operation Exemption—Norfolk S. Ry., FD 35300 (STB served Oct. 21, 2009).

NSR, and other consulting parties, if any, to determine whether appropriate mitigation measures are necessary. Accordingly, the new condition recommended by OEA in the final EA will be imposed.

Based on OEA's recommendation, the proposed abandonment, if implemented as conditioned, will not significantly affect either the quality of the human environment or the conservation of energy resources.

It is ordered:

1. This proceeding is reopened.
2. Upon reconsideration, the notice served and published in the Federal Register on August 21, 2017, exempting the abandonment of the Line described above is subject to the condition that, in the event that any unanticipated archaeological sites, human remains, funerary items or associated artifacts are discovered during the salvage activities, NSR shall immediately cease all work and notify OEA, the Miami Tribe, and the SHPO pursuant to 36 C.F.R. § 800.13(b). OEA shall then consult with the Miami Tribe, the SHPO, NSR, and other consulting parties, if any, to determine whether appropriate mitigation measures are necessary.

3. This decision is effective on its service date.

By the Board, Scott M. Zimmerman, Acting Director, Office of Proceedings.